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4 Attorneys for Petitioner
 5 EDDIE COLE

6
 7 **IN THE UNITED STATES DISTRICT COURT**
 8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
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| 10 | EDDIE COLE, |) | No. C 07 5183 JF |
| 11 | Petitioner, |) | |
| 12 | v. |) | MOTION FOR FINAL, 10-DAY |
| 13 | TOM FELKER, Warden of the High |) | EXTENSION OF TIME TO FILE |
| 14 | Desert State Prison, |) | TRAVERSE AND SUPPORTING |
| 15 | Respondent. |) | <u>MEMORANDUM</u> |

16 Petitioner Eddie Cole, through his counsel, hereby moves the Court for a final, ten-day
 17 extension of time, from October 7, 2008, to and including October 17, 2008, to file his traverse
 18 and supporting memorandum in this habeas matter.

19 In support of this motion, Donald M. Horgan declares under penalty of perjury as
 20 follows:

- 21 1. This office is counsel for petitioner Eddie Cole.
- 22 2. Petitioner filed a verified petition for a writ of habeas corpus on October 9, 2007 and a
 23 memorandum in support of the petition on December 6, 2007. The petition and memorandum
 24 challenge Mr. Cole’s state court conviction for second degree murder and imposition of a related
 25 firearm enhancement resulting in a state prison term of 40 years.
- 26 3. On February 13, 2008, the Court issued an order to show cause requiring respondent
 27 to respond to the petition within thirty days and permitting Mr. Cole to file a traverse to
 28 respondent’s answer within thirty days thereafter.

1 4. Respondent subsequently sought and received two extensions of time totaling one
2 hundred and twenty days to respond to Mr. Cole's petition.

3 5. Respondent filed an answer to the petition on July 9, 2008. Petitioner thereafter
4 sought and received two extensions of time totaling sixty-one days to file his traverse to
5 Respondent's Answer.

6 6. This motion is founded on the extraordinary press of business in this office which will
7 prevent us from filing the traverse and supporting memorandum by today's date. Specifically,
8 during the past thirty days, we have been required to file an opening brief in the Ninth Circuit
9 Court of Appeals challenging our client's federal court convictions on numerous counts of mail
10 fraud and theft of honest services, United States v. Garrido, et al., Central Dist. No. 04-1594 (B)
11 - SVW; an opening brief on appeal challenging our client's multiple state court convictions for
12 insurance fraud, People v. Ghazey, First App. Dist. No. A120722; a reply supporting a petition
13 for review to the California Supreme Court challenging the Court of Appeal's denial of a writ of
14 prohibition based on a double jeopardy claim in the murder prosecution of our client in the Los
15 Angeles County Superior Court, People v. Spector, Los Angeles Sup. Ct. No. BA255233; a
16 petition for review in the California Supreme Court as to the Court of Appeal's denial of an
17 appeal challenging our client's state court convictions for attempted murder, burglary, assault
18 with a deadly weapon, and arson, resulting in a life sentence, People v. Engel, Third App. Dist.
19 No. C054157; a sentencing memorandum in connection with our client's conviction for second
20 degree murder arising out of a fatal dog mauling, People v. Knoller, San Francisco Sup. Ct. No.
21 181813-01; a federal court habeas corpus petition challenging our client's state court
22 convictions for attempted murder and multiple counts of sexual assault, People v.
23 Eghtesadi, Cal. Third App. Dist. No. C043777; a revised opening brief in the Ninth Circuit
24 Court of Appeals challenging our client's federal court convictions for conspiracy to obstruct
25 justice, perjury, solicitation to commit arson, mail fraud, and related offenses, United States v.
26 Mohsen (Northern Dist. No. CR 03-00095-01 WBS); a reply in support of an appeal challenging
27 our client's state court conviction for first degree murder, People v. Posey, First App. Dist. No.
28 A118361; a motion in limine seeking the exclusion of certain testimony in the Spector matter,

1 supra; supplemental briefing in opposition to the Department of Justice's application to extradite
2 our client, a Mexican national and human rights activist accused by the Mexican government of
3 murder, In the Matter of the Extradition of Sergio Alfonso Dorantes Zurita, Northern Dist. No.
4 CR 07-90051 MISC (MEJ) MJJ; and an extensive district court motion for release on bail
5 pending conclusion of a Ninth Circuit appeal challenging the fraud, money laundering, and
6 related federal convictions of our client, the former prime minister of the Ukraine, United States
7 v. Lazarenko, Ninth Cir. No. 06-10592.

8 7. In addition, and apart from the traverse and supporting memorandum in this matter,
9 during the next thirty days, we will be required to file an opening brief challenging our client's
10 state court conviction for second degree murder and related gang and firearm enhancements
11 resulting in a sentence of 50 years to life in state prison, People v. Campos (San Francisco Sup.
12 Ct. No. 2170342); an amended complaint alleging negligence by the state Department of
13 Corrections in connection with its unsupervised release of a parolee who inflicted serious bodily
14 injuries on our clients, Schaller, et al., v. California, San Francisco Sup. Ct. No. CGC-08-
15 473684; an opening brief challenging our client's state court conviction for first degree murder
16 resulting in a sentencing of twenty five years to life in state prison, People v. Smith, Fourth App.
17 Dist. No. G040107; supplemental briefing in support of an amended petition for a federal writ of
18 habeas corpus and extensive supporting memorandum challenging our client's state court
19 conviction for first degree murder, resulting in a sentence of 25 years to life in state prison,
20 Woods v. Adams, Central Dist. No. SAVC 06-69 AHM (JWJ); a reply in support of a motion to
21 dismiss the superseding indictment in a federal perjury prosecution, United States v. Barry
22 Lamar Bonds, Northern Dist. No. CR 07 0732 SI; an opening brief on appeal challenging our
23 client's multiple third-strike convictions for residential burglary resulting in a sentence of forty
24 years to life in state prison, People v. Bui, First App. Dist. No. A119404; a traverse and
25 supporting memorandum in support of a federal habeas petition challenging our client's state
26 court convictions for several sex offenses, Galvan v. Yates, No. Dist. No. C 064143 RMW; and
27 an opening brief in the Ninth Circuit Court of Appeals challenging our client's federal court
28 convictions for conspiracy and securities fraud, United States v. Montesano, Central Dist. No.

1 CR 03-00620 - TJH.

2 8. Mr. Cole is incarcerated.

3 9. In view of the foregoing circumstances, I respectfully request that the Court extend
4 the time for filing petitioner's traverse and supporting memorandum for a final period of ten
5 days, from October 7, 2008, to and including October 17, 2008.

6 Executed this 7th day of October, 2008, at San Francisco, California.

7
8 /s/ Donald M. Horgan
Donald M. Horgan

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10 Counsel for Petitioner
EDDIE COLE


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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

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| EDDIE COLE, |) | No. C 07 5183 JF |
| |) | |
| Petitioner, |) | {PROPOSED} ORDER |
| |) | |
| v. |) | |
| |) | |
| TOM FELKER, Warden of the High |) | |
| Desert State Prison, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

Good cause appearing therefore, the time for filing petitioner's traverse and supporting memorandum is extended to and including October 17, 2008.

DATED: 10/8/08



JEREMY FOGEL
United States District Judge

